

## TOWN OF WELLESLEY

76-58  
MASSACHUSETTS

## BOARD OF APPEAL

F. LESTER FRASER  
STANLEY J. GLOD  
WILLIAM O. HEWETT  
FRANKLIN P. PARKER  
FRANCIS L. SWIFT  
HENRY H. THAYER

KATHARINE E. TOY  
Administrative Secretary  
Telephone  
235-1664

Petition of John J. and Mary L. Tracey

Pursuant to due notice the Board of Appeal held a public hearing in the hearing room on the second floor of the Town Hall at 8:10 p.m. on September 30, 1976, on the petition of John J. and Mary L. Tracey, requesting a special exception or variance from the terms of Section XIX and Section XVIII-C of the Zoning By-law which will permit the construction of a sun deck less than the required thirty feet and the coverage by buildings of more than 25% of the area of the lot. Said request was made under the provisions of Section XIX of the Zoning By-law and Section XVIII of the Zoning By-law and Chapter 40A, Section 15, of the General Laws. Said dwelling is located at 11 Session Street.

On August 9, 1976, the petitioners filed their request for a hearing before this Board and thereafter due notice of the hearing was given by mailing and publication.

John J. Tracey, spoke in support of the request at the hearing.

Statement of Facts

The dwelling involved is located within a Single Residence District requiring a minimum lot area of 10,000 square feet. It was built approximately sixty years ago and adjoined other land of the same owner on April 1, 1940.

The petitioners seek permission to construct a sun deck approximately 12' x 20' on the southerly side of their dwelling which will be 7.00' back from Atwood Street at the nearest point and 9.33' at the farthest point. It was explained at the hearing, that the house involved has very little land around it, and due to the necessity of providing off-street parking space for the petitioners' car, a driveway has been constructed from Atwood Street. This involved a four-foot excavation for the entire length of the driveway, with two retaining walls. It is now the desire of the petitioners to construct a sun deck over this driveway. It is the belief of the petitioners that the proposed sundeck will not prove detrimental to the neighborhood. The proposed location appears to be the most practical place for it as there is a window on the south side of the house which, if allowed, will be made into a doorway giving easy access to the kitchen. It was also pointed out that it is not possible to construct an addition of any size on the house which would comply with the Zoning By-law.

A plot plan was submitted, drawn by Alexander Crucioli, Land Surveyor, dated September 4, 1973, which showed the existing house on the lot as well as the proposed sun deck.

Decision

It is the unanimous opinion of this Board, after viewing the premises, that the request may be granted. The Board feels that the proposed deck is reasonably necessary and will not prove detrimental to the neighborhood.

The Board, however, is not authorized to make a special exception under Section XIX of the Zoning By-law as said section authorizes the Board to grant such exceptions only if on April 1, 1940, the lot was owned of record under a separate and distinct ownership from adjacent lots. The house involved was built approximately sixty years ago and adjoined other land of the same owner on April 1, 1940. The Board, however, considered the request under the provisions of General Laws, Chapter 40A, Section 15,

The lot which contains only 3,640 square feet, is located on a corner which imposes greater setback requirements from both street lines and lot lines, and therefore, it is virtually impossible to construct an addition of any size on the house involved which would comply with the Zoning By-law. It is the opinion of this Board that the proposed encroachment of a sun deck will not interfere with adequate light and air, nor create overcrowding on the lot.

It is the further opinion of this Board that a literal enforcement of Section XIX of the Zoning By-law would cause a substantial hardship to the petitioners which can be avoided without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of said section.

Accordingly, the request is granted under the provisions of Chapter 40A, Section 15, of the General Laws, and the Building Inspector is authorized to issue a permit for the proposed sun deck in accordance with the plans submitted and on file with this Board, subject to the following condition:

1. That no superstructure shall be built above the sun deck without approval of the Board of Appeal.

Filed with Town Clerk \_\_\_\_\_

*Francis L. Swift*  
Francis L. Swift

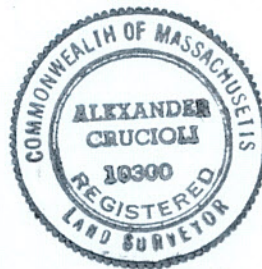
*F. Lester Fraser*  
F. Lester Fraser

*William O. Hewett*  
William O. Hewett



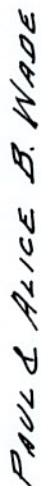
SEPT. 4, 1973.

SURVEYOR: ALEXANDER CRUCIOLI  
ACRES ENGINEERS  
6 ABBOTT ROAD  
WELLESLEY, MASS.

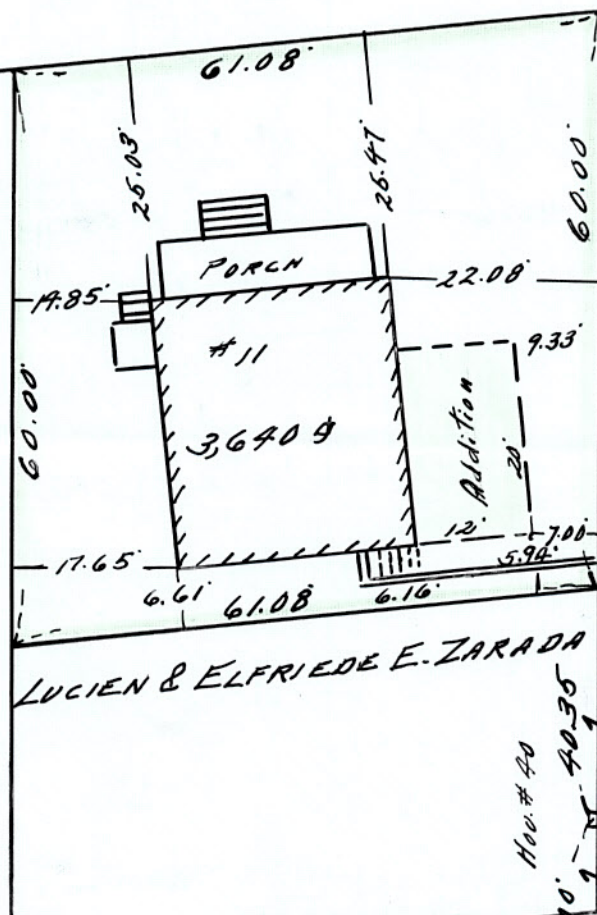


Alexander Lucicoli

SESSIONS (40) STREET



House #9 Lot B



LUCIEN & ELFRIEDE E. ZARADA

MORTON ST.

STREET

(40)

ATWOOD

Doc. # 40

20.35

**C.B.**